

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

August 30, 2018 - 9:00 a.m.

49 Donovan Street

Concord, New Hampshire

DAY 2

Morning Session ONLY

{REDACTED - for public use}

{Electronically filed with SEC 09-11-18}

IN RE: SEC DOCKET NO. 2015-04
Application of Public
Service of New Hampshire
d/b/a Eversource
Energy for Certificate
of Site and Facility
(Adjudicative Hearing)

PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:

Patricia Weathersby
(Presiding Officer)

Public Member

David Shulock

Public Utilities Comm.

Dir. Elizabeth Muzzey

Div. of Hist. Resources

Charles Schmidt, Admin.

Dept. of Transportation

Dir. Christopher Way

Div. of Economic Dev.

Michael Fitzgerald

Dept. of Env. Serv.

Susan Duprey

Public Member

ALSO PRESENT FOR THE SEC:

Michael J. Iacopino, Esq.

Counsel for SEC

Iryna Dore, Esq.

Counsel for SEC

(Brennan, Lenehan, Iacopino & Hickey)

Pamela G. Monroe, SEC Administrator

(No Appearances Taken)

COURT REPORTER: Cynthia Foster, LCR No. 14

I N D E X

WITNESS	VICTORIA BUNKER	PAGE NO.
Direct Examination by Mr. Needleman		4
Cross-Examination by Mr. Patch		7
Cross-Examination by Mr. Ratigan		22
Cross-Examination by Ms. Mackie		26, 94
Cross-Examination by Ms. Frink		41
Cross-Examination by Mr. Aslin		43

NOTE TO READER:

CONFIDENTIAL SESSION under separate cover
containing **Pages 69 - 92.**

**QUESTIONS FROM SUBCOMMITTEE
MEMBERS & SEC COUNSEL BY:**

Dir. Muzzey	98
Mr. Schmidt	101
Mr. Fitzgerald	102
Dir. Way	106
Ms. Weathersby	108
Redirect Examination by Mr. Needleman	110

Index continued on page 3

I N D E X (continued)

WITNESS PANEL

LYNN FRAZIER

(Resumed)

NICHOLAS STRATER

DAVID PLANTE

KENNETH BOWES

MARC DODEMAN

WILLIAM WALL

Cross Examination Continued by Mr. Patch 116

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

P R O C E E D I N G S

(Hearing resumed at 9:00 a.m.)

PRESIDING OFFICER WEATHERSBY: Good morning all. Welcome back. It's Day 2 of our hearings in Seacoast Reliability Project. This morning we're going to start with Victoria Bunker. (Whereupon, **VICTORIA BUNKER** was duly sworn by the Court Reporter.)

VICTORIA BUNKER, SWORN

MR. NEEDLEMAN: Thank you. I'll note for the record that sitting next to me this morning at counsel table is Dana Bisbee from Devine Millimet who also represents the Applicant in this matter.

DIRECT EXAMINATION

BY MR. NEEDLEMAN:

Q Dr. Bunker, could you please state your name and business address for the record?

A My name is Victoria Bunker. My business address is 31 Africa Road in Alton, New Hampshire.

Q And you submitted three pieces of testimony in this matter, and I want to go through those one at a time.

The first is Applicant's Exhibit 18 which

1 is your initial testimony submitted on April
2 12th, 2016; is that correct?

3 A Yes, it is.

4 Q Do you have any changes or corrections to that
5 testimony?

6 A No. Nothing.

7 Q Your second piece of testimony is Applicant's
8 Exhibit 77 which is your Amended Testimony
9 submitted on March 29th, 2017; is that right?

10 A Yes, it is.

11 Q Any changes or corrections to that testimony?

12 A No.

13 Q And then you have Applicant's Exhibit 144 which
14 is your Supplemental Testimony submitted on July
15 27th, 2018. Is that correct?

16 A Yes.

17 Q And do you have any changes or updates to that
18 testimony?

19 A One small update.

20 Q Okay. Could you please explain that and do so
21 with reference to a page and line number?

22 A One moment while I find the correct page.

23 Q I think it's page 2.

24 A Page 2. Thank you.

1 Q Lines 11 and 12. Is that it?

2 A Yes. I'm sorry. My eye jumped across the page.
3 Yes. The comment that I have on that is that
4 the Edgerly Farm area has been submitted to
5 Division of Historic Resources. It has been
6 reviewed, and the findings were accepted, and
7 that happened following submission of this
8 testimony.

9 Q And those findings were memorialized in the
10 letters; is that correct?

11 A There's a communication that came from DHR that
12 states that. It's a form that serves as a
13 letter. Yes.

14 Q And is it your understanding that those
15 documents have been provided to all parties this
16 morning?

17 A Yes.

18 Q Subject to that change and that piece of
19 testimony, do you adopt and swear to all of the
20 pieces of testimony that we just went through?

21 A Yes, I do.

22 Q Thank you. All set, Madam Chair.

23 PRESIDING OFFICER WEATHERSBY: Thank you.
24 We'll proceed in the same order. So we'll start

1 with the examination from the Town of Durham,
2 Mr. Patch.

3 **CROSS-EXAMINATION**

4 **BY MR. PATCH:**

5 Q Good morning. Ms. Bunker, my name is Doug
6 Patch. I'm the attorney for the Town of Durham
7 and University of New Hampshire.

8 A Morning.

9 Q It appears from your original testimony which
10 has been marked as Exhibit 18 that you are on
11 the New Hampshire Rivers Advisory Council and
12 you are the Governor-Appointed Representative
13 for Archeological Resources for river protection
14 programs. Is that correct?

15 A I'm a former member. It was many years ago.

16 Q Okay.

17 A Yes.

18 Q How many years ago was that?

19 A I would say 25, give or take.

20 Q Okay. You indicated in that same testimony at
21 page 2 that you have experience doing surveys in
22 the New Hampshire coastal zone and studies of
23 sites along the Oyster and Lamprey Rivers,
24 correct?

1 A Yes.

2 Q And when was that experience?

3 A There are numerous surveys that I've done in the
4 Coastal Zone. I've done many residential
5 subdivision projects in the past, probably more
6 than 30 years ago. I also participated in the
7 improvements to the Spaulding Turnpike which
8 goes over Great and Little Bays, the mouth of
9 those rivers. I've completed power line
10 corridor surveys that go into Madbury and
11 Durham. Also on 3 towards Dover. Most recently
12 in the last two or three years. I've completed
13 other research projects including a project in
14 Durham on the Lamprey River for an archeological
15 area, but since it's a site and confidential, I
16 have to keep the answer rather generalized.

17 Q In your description of the background
18 documentary research that you did for this
19 project, and I'm looking at page 3, line 12, of
20 your Original Testimony, Exhibit 18, you said
21 that part of the secondary documents that you
22 reviewed included marine geophysical survey
23 data, correct?

24 A Yes. That's right.

1 Q Could you tell us what kind of data that is?

2 A Yes, I can. The, I had at that time an
3 underwater archeologist on my staff specific for
4 this project, and I did not do the review
5 myself. My staff member did. And that was
6 looking at side scan sonar data, and -- I forgot
7 the name of it. When the echo comes back from
8 the bottom. It's a point, information point.
9 And this individual on my staff reviewed those
10 documents that were provided by the underwater
11 scanning company for the project.

12 Q And what were you looking for?

13 A Anomalies.

14 Q I'm sorry.

15 A I'm sorry. I answered too quickly.

16 Q That's okay.

17 A Anomalies that would perhaps indicate the
18 presence of submerged resources such as a
19 shipwreck.

20 Q And did you find anything?

21 A No.

22 Q And what's the level of -- I don't have the
23 right technical term, but specificity. How big
24 would an object have to be to show up on that?

1 A Fairly large, and it would be, to give us a more
2 practical example, something on the scale of a
3 small boat would show up. And as people
4 interested in the area's history might know,
5 gondolas traveled up and down those rivers.
6 Something of that scale would have shown up.

7 Q But not something really any smaller than that?

8 A Not too much. We might go down to a dinghy, but
9 I wouldn't go any smaller than that.

10 Q And so for the rest of the review that you did
11 for this project, was there any other kind of
12 review that you did associated with the bed and
13 the tidal flats of Little Bay?

14 A The tidal flats of Little Bay?

15 Q And the bed of Little Bay. Is there anything
16 else that you reviewed other than that
17 particular data to determine whether or not
18 there were any other archeological resources in
19 Little Bay?

20 A Yes. We looked at nautical maps that show
21 bottom contours and topography. We also looked
22 at, there's a national shipwreck database, and
23 we accessed that database.

24 Q And that, again, would be sizable relics like a

1 ship or a boat or something like that?

2 A I don't think it's the size necessarily. It's
3 more the event itself. It would be an event
4 that had been recorded at the time.

5 Q And did you find anything there?

6 A No.

7 Q Nothing at all.

8 A Nothing.

9 Q And so that's the extent of the review that you
10 did associated with Little Bay then?

11 A Well, there was archival review that addressed
12 the initial placement of the underwater cable in
13 that area. That was strictly archival. We did
14 not do field truthing underwater. It's too
15 dangerous to send down a diver.

16 Q Too dangerous, why is it too dangerous?

17 A There are very strong currents there.

18 Q Okay. But divers will be going in there
19 associated with installing the cable so
20 obviously it's not too dangerous for them.

21 A It's too dangerous for my, for my liking to send
22 down somebody.

23 Q Are you familiar with how they plan -- well, let
24 me back up for one second.

1 You said you reviewed the original
2 installation of the cable. Do you remember what
3 year that was?

4 A Early 1900s. I don't remember the exact year.

5 Q Early 1900s.

6 A I believe so.

7 Q Okay. Are you familiar with how they plan to
8 excavate in Little Bay and to bury the cables in
9 three separate trenches in the bed of Little
10 Bay?

11 A I'm not familiar with the exact construction
12 techniques, no.

13 Q Is it possible or likely that when they are
14 using the excavator in the tidal flats or the
15 diver that's operating the jetting tools or the
16 actual jet plow that they may uncover
17 archeological resources?

18 A I would call it very unlikely.

19 Q And why would you say that?

20 A Because of the channel configuration and the
21 strong current flood event, erosion and
22 displacement. It's very unlikely that they
23 would uncover something.

24 Q And what about when they're removing the

1 existing cable? Is there any chance that they
2 would uncover something then?

3 A Aside from the cable itself? I don't know.

4 Q You don't know. So they could uncover perhaps
5 some tools that were used to install the cable
6 or something like that? Something that might be
7 associated with the time frame when the cable
8 was originally installed. It's possible.

9 A It's possible. I really -- yes.

10 Q On page 9, line 19, of your testimony, and I
11 believe that's Exhibit 18, you referred to
12 construction crews receiving training regarding
13 the protection of known archeological resources
14 and steps to be taken if they are discovered,
15 correct?

16 A Yes. That's right.

17 Q And is that just on land or would that apply to
18 Little Bay as well?

19 A The project as a whole.

20 Q So it would include training for the people who
21 are involved in the construction associated with
22 putting the cable under Little Bay?

23 A Yes.

24 Q Okay. And who will conduct that training?

1 A I don't know.

2 Q And in terms of the training with regard to
3 archeological resources, is it your
4 understanding that it would be a qualified
5 professional archeologist that would be involved
6 in that training or somebody with those kinds of
7 credentials?

8 A I would presume that a qualified person would be
9 conducting the training, yes.

10 Q But you don't know that for a fact?

11 A I don't know who that person is, and I don't
12 know who will be hiring that person.

13 Q And in your Original Testimony, page 9, you
14 indicated that the project will develop
15 procedures for addressing unanticipated
16 discovery of archeological resources discovered
17 during construction, correct?

18 A That's correct.

19 Q And that would be part of the training?

20 A The procedures and the training are slightly
21 separate, but they mesh together.

22 Q And so, but presumably the training would cover
23 the procedures.

24 A Yes.

1 Q And you said that those procedures would include
2 a halt in construction work in the immediate
3 area in the event of a find?

4 A Yes, that's right.

5 Q And so the person -- who, in fact, would be the
6 one doing the monitoring to determine whether or
7 not there were archeological resources found?

8 A I could refer you to the Draft Memorandum of
9 Understanding, Appendix C, for all the details.
10 There will be a cultural resources monitor,
11 there will be a qualified professional
12 archeologist, and there will be also a
13 construction monitor. So there will be numerous
14 people on this effort.

15 Q And that's spelled out in at least the Draft MOU
16 at this point and presumably will be in the
17 Final MOU?

18 A Yes. Correct.

19 Q And will any of those people you just described
20 have the authority to order a work stoppage in
21 the event of a find?

22 A Yes.

23 Q And do you know who those people will be
24 answering to? Is that spelled out in the MOU?

1 Will they be answering to DHR or to Eversource
2 or to whom?

3 A I don't recall.

4 Q Do you know whether in the event there is a find
5 made, for example, in the Town of Durham or on
6 the UNH campus that they would be notified of
7 such a find?

8 A The property owner would be notified? Is that
9 the question?

10 Q Well, the Town of Durham doesn't necessarily own
11 all of the property, but obviously the project
12 goes through the Town of Durham so I guess I'm
13 asking whether notification would be made to the
14 town in the event that an archeological resource
15 is discovered, you know, at some point, during
16 the construction in the Town of Durham.

17 A I'm sorry, but I don't know the answer to that.

18 Q Do you think that should be included as a
19 condition of approval if the Committee decides
20 to grant a certificate?

21 A Not necessarily.

22 Q Do you know if that's covered in the MOU with
23 DHR?

24 A I don't remember.

1 Q What about the Unanticipated Discovery Plan?

2 Now, that's a separate document, isn't it?

3 A Yes, it is.

4 Q Is that referenced in the MOU?

5 A It's part of that Appendix.

6 Q But you're not sure whether that would be
7 covered, and by that I mean notification to the
8 town or to UNH in the event of a find?

9 A I don't recall if that's one of the steps.

10 There are numerous steps, and part of the whole
11 package is to correspond with Division of
12 Historic Resources. I just don't remember if
13 there's a town involvement.

14 Q And in terms of the MOU with DHR and the
15 Unanticipated Discovery Plan, do either of these
16 documents refer to and apply to excavation in
17 Little Bay?

18 A To Little Bay?

19 Q Yes.

20 A They apply to the whole project.

21 Q Okay. So it would include Little Bay then.

22 A Yes.

23 Q In your Original Testimony, page 4, line 30.

24 You said there were 22, I believe is the number,

1 sensitivity areas including cemetery locations
2 and zones of archeological resource sensitivity,
3 correct?

4 A Yes. That's right.

5 Q Has that number changed?

6 A The number of sensitivity zones has not changed.

7 Q What has changed?

8 A What has changed is that the field survey has
9 indicated that for the most part archeological
10 resources are absent in those sensitivity zones
11 implying that they're no longer sensitive for
12 resources.

13 Q So the scope has been reduced; the number
14 hasn't, but the scope has? Is that how you
15 would characterize it?

16 A No. May I untangle this a little bit --

17 Q Absolutely.

18 A -- for understanding? The first part of the
19 archeological survey, the objective was to
20 define areas of sensitivity. That is locations
21 where sites might be expected. That's reflected
22 in the testimony of that year. Subsequently,
23 all of those have been examined in more detail
24 to determine whether or not resources actually

1 exist. That's been presented in a number of
2 reports that fall under Phase 1-B. That is
3 shovel testing and more detailed field
4 examination.

5 Because results were negative, the areas
6 that were initially considered sensitive have
7 not been confirmed to exhibit archeological
8 sites. Same original number exists, but they're
9 of no further concern. Does that answer better?

10 Q Yes. Thank you.

11 A Okay.

12 Q In your 2018 testimony which I believe is marked
13 as Exhibit 144, at page 3, you said one
14 additional area of interest is the granite
15 quarry in Durham Point Historic District,
16 correct?

17 A Yes.

18 Q And so does that add, was that in a sensitivity
19 area to begin with then?

20 A Yes.

21 Q Okay. And so can you describe what steps will
22 be taken to further address the Durham Point
23 Historic District or the fact that that has now
24 become an area of interest? What does that

1 mean?

2 A Again, I'll have to untangle that a little bit
3 if I may.

4 Q Sure.

5 A Thank you. During initial Phase 1-A
6 archeological survey, portions of that quarry
7 were observed in the right-of-way, observed by
8 me as an archeological resource. As time went
9 on, the area came under a list of questions
10 provided by Durham Historic Association and also
11 was evaluated in a Historic District by the
12 aboveground team. The component is not
13 considered archeological for this project at
14 this time. Instead, it has gone forward to be
15 under the aboveground resources or the
16 architectural historians study. So my
17 involvement in it has dropped out.

18 Q In your 2018 testimony, page 4, you said that
19 you reviewed the testimony that was submitted by
20 the Durham Historic Association, correct?

21 A Yes.

22 Q Did you meet with them?

23 A I did not. But other people did.

24 Q Other people that work for you?

1 A No. Other people involved with the Project.
2 Members of the Project team and members of
3 Division of Historic Resources.

4 Q Okay. And so, but you and the people that work
5 for you didn't meet with them or do any site
6 visits with them; is that right?

7 A I did not attend any of them. I received
8 information, however.

9 Q And you didn't nor did any people who work for
10 you specifically?

11 A No.

12 Q From a general perspective, you think it's
13 important to become aware of and draw upon the
14 knowledge and experience of local people who are
15 involved in preserving historic resources? Do
16 you think generally that's a good thing to do?

17 A Yes.

18 Q And so you considered reviewing their testimony
19 to be sufficient to, in order to accomplish
20 that?

21 A I reviewed their testimony, and I reviewed
22 documents that they submitted in earlier emails
23 before their testimony, and I utilized the
24 information that was available to me from the

1 various walkover field inspections.

2 Q But you didn't think it was important to
3 actually talk to them and see what they had to
4 say?

5 A I relied on that information only.

6 Q Okay. That's all the questions I have. Thank
7 you.

8 A Thank you.

9 PRESIDING OFFICER WEATHERSBY: Attorney
10 Ratigan?

11 MR. RATIGAN: Thank you.

12 **CROSS-EXAMINATION**

13 **BY MR. RATIGAN:**

14 Q Good morning.

15 A Good morning.

16 Q My name is John Ratigan. I represent the Town
17 of Newington.

18 A Good morning.

19 Q With reference to the MOU that you discussed,
20 who are the parties to that document; do you
21 know?

22 A I'm sorry. I'm twisting around so I can see
23 you. The MOU, the Memorandum of Understanding,
24 will be signed between the company, Eversource,

1 and the Division of Historical Resources. It
2 contains another document known as the MOA which
3 is a document to be signed by the Army Corps.

4 Q And is that customarily who are the parties to a
5 document like this?

6 A Yes.

7 Q And do municipalities, do they often become
8 parties to the document as well?

9 A I don't know the answer to that.

10 Q Do you know whether it has been finalized or
11 not?

12 A It has not.

13 Q Do you know when it might be finalized?

14 A Hopefully soon. A recent draft was submitted
15 yesterday, comments have gone back and forth,
16 and I would think it would be signed quite soon.

17 Q Do you have an understanding of whether the MOU
18 would be submitted to the Site Evaluation
19 Committee for a review?

20 A I know the Draft has been submitted. The Final,
21 I don't know the steps.

22 Q You referenced that your participation has
23 ceased, is that, at present?

24 A For that examination of that quarry site.

1 Q Are you going to continue to be involved in the
2 monitoring or observations of the activities
3 that would be governed by the MOU?

4 A I don't know who will be brought on for that.
5 All of my information will be available, even if
6 it's not me.

7 Q So if it's not you, you don't know who the
8 Qualified Professional would be?

9 A I do not.

10 Q And are you aware of what the detailed protocols
11 are to be followed?

12 A In the, there is a Appendix to that MOU which
13 addresses a number of archeological subjects.
14 Yes, I've read through those.

15 Q So to the extent that the Appendix is attached
16 to the final signed MOU, that would set forth
17 the protocols to be followed by whoever the
18 unknown person is that will be doing that work?

19 A Yes.

20 Q And in the beginning you talked about three
21 different people or roles that would be assumed
22 in monitoring construction activities. I take
23 it that none of those people have been
24 identified yet?

1 A Not to my knowledge.

2 Q Okay. But it would be those three positions
3 that would perform the monitoring activity?

4 A Yes.

5 Q Okay. No further questions. Thank you.

6 A Thank you.

7 PRESIDING OFFICER WEATHERSBY: Up next is
8 the Conservation Law Foundation? Mr. Irwin or
9 Ms. Ludke.

10 MR. IRWIN: No questions.

11 PRESIDING OFFICER WEATHERSBY: And Durham
12 Residents also have no questions, Ms. Brown?

13 MS. BROWN: That's correct.

14 PRESIDING OFFICER WEATHERSBY: Durham
15 Historic Society? Ms. Mackie?

16 MS. MACKIE: Excuse me. Yes, I do have
17 questions. I'd like to correct the record. Our
18 corporate name is the Durham Historic
19 Association.

20 PRESIDING OFFICER WEATHERSBY: Will you be
21 asking questions from there or up at the
22 lectern?

23 MS. MACKIE: I have questions. I can't
24 hear you.

1 PRESIDING OFFICER WEATHERSBY: I'm sorry.
2 Will you be asking questions from your seat or
3 at the lectern?

4 MS. MACKIE: Oh. From here.

5 **CROSS-EXAMINATION**

6 **BY MS. MACKIE:**

7 Q Hello, Victoria.

8 A Good morning.

9 Q Good morning. Can you give me a description of
10 the research you did before your field survey?

11 A Yes. The research included review of primary
12 and secondary documents. It included review of
13 Division of Historic Resources files, site
14 files, town files, National and State Register
15 files. It included environmental research such
16 as soil typology, geomorphology, bedrock
17 geology. Review of, let's see, other
18 environmental environments. Water drainage
19 ways, and the like.

20 Q Can you given me examples of primary sources you
21 used?

22 A Primary sources would be things like historic
23 maps or things on the idea of town history.

24 Q Well, I think the town history technically is a

1 secondary source, but did you -- the town maps
2 you used. What was the oldest map?

3 A We used the 19th century maps. 1890s, 1850s or
4 '60s, and we used other maps that were compiled
5 in the 20th century. There was a map by, I
6 think it's Scales, that pulled in information
7 from earlier eras.

8 Q Are you referring to the town history map and
9 the landmarks map done around 1890, 1913?

10 A Yes. That makes sense. Thank you.

11 Q Right. And you realize those are contextual
12 maps that include mistakes.

13 A Yes.

14 Q So the oldest map that was made at the time it
15 was published is the 1856 map?

16 A May I just back up a little bit? There was one
17 other map that I neglected to mention, and I
18 don't remember the date. It's a land survey of
19 the Piscataqua Valley. It's the one with the
20 beautiful colors and the hills and the deer
21 running around. We also reviewed that one. I'm
22 sorry I don't remember the author of the map.

23 Aside from that one, yes. That 1950s/'60s
24 map is the oldest.

1 Q Are you referring to the map of the Pascatway
2 done by John Scott in around 1670?

3 A That one. Thank you very much. I'm sorry.

4 Q Sure.

5 A I just thought of another one, too, and that was
6 railroad right-of-way maps.

7 Q Right. And those date from the second, the
8 widening of the track in 1910, right.

9 A I'm sorry. I didn't mean to digress.

10 Q What was the source you used to review the
11 existence of burial sites?

12 A New Hampshire Old Graveyards database primarily.

13 Q I'm sorry. I can't hear you.

14 A New Hampshire Old Graveyards database.

15 Q I see. And are you aware that that's 50 years
16 old?

17 A Well, I'm also aware that it's updated regularly
18 and kept active.

19 Q Uh-huh. And what Native American records that
20 are in the public record were reviewed?

21 A I don't know what "public record" means.

22 Q Well, for example, deeds.

23 A Deeds? We did not do any deed research at this
24 phase of study. Deed research comes later in

1 the archeological phases. Perhaps at a Phase II
2 level. It was not required and not used at this
3 level of study.

4 Q And as is already brought out, you did not
5 contact the Durham Historic Association for
6 information?

7 A I did not contact the Historic Association for
8 information, but I relied on information that
9 you folks pulled together and provided during
10 the course of the Project.

11 Q Right. But wasn't your survey done before we
12 submitted our testimony?

13 A Our survey was ongoing, and the first part of it
14 was done before your testimony came forward.
15 Yes. We did go back, though, on the
16 recommendation of the Historic Association's
17 list of concerns, and we continued our survey
18 right up to June of this year based on
19 information that was provided by your
20 association.

21 Q So you're not aware then that the New Hampshire
22 Old Graveyard Association listing includes none
23 of the burial sites in town which have markers
24 made of fieldstones only? In other words, the

1 only burial sites listed on the NHOGA site are
2 ones with engraved headstones.

3 A I have no comment for that.

4 Q Well, after the review of our testimony, you
5 would have known that the Samuel Hill burial
6 site which is recorded in our town history but
7 not on the NHOGA list because it has no engraved
8 markers or any markers at all at this point but
9 is recorded in the town history, you would have
10 found out about that if you read our testimony.

11 Was there any further work done on that
12 site?

13 A I revisited the location and looked at the area
14 again, and did not see anything that would have
15 changed my original assessment.

16 Q Well, there's nothing to see there. It's
17 recorded to be an unmarked gravesite.

18 A I understand that.

19 Q Was there any reason that GPR wasn't conducted
20 or some other similar technology?

21 A No.

22 Q Well, isn't it ordinarily done when a gravesite
23 is suspected that ground penetrating radar or
24 some similar radar is used to determine ground

1 disturbance?

2 A Not necessarily normal procedure, no.

3 Q Well, the burden of proof is on Eversource to
4 prove there's no graves there. So how would
5 they do that otherwise?

6 A I don't have an answer for that.

7 Q What research was done after the survey was
8 completed or after the field survey was done?

9 A There was no research done after the survey was
10 done. Research and field work go hand in hand.
11 I may not be understanding your question
12 correctly.

13 Q Well, for example, the cellar hole on Foss Farm.
14 Was any deed research done to determine who the
15 owners were?

16 A The cellar hole on Foss Farm.

17 Q Just above the LaRoche Brook.

18 A I know where LaRoche Brook is, and I know where
19 the cellar hole is in the corridor. Is that, am
20 I correct on the one that you're referring to
21 that is named Cornet Winthrop Smith in your
22 record?

23 Q Yes. That's correct.

24 A Thank you. I wanted to make sure I had the same

1 location in mind that you have in mind. No --
2 I'm sorry. I forgot the question. Was it a
3 deed research question?

4 Q Yes. I was wondering if any deed research was
5 done to determine who the owner of the house
6 was?

7 A No. And the reason for that is that deed
8 research, as I mentioned, is typically done at
9 the Phase II level of archeological survey when
10 we are trying to positively determine National
11 Register eligibility of a site and need to know
12 things like ownership, cultural chronology,
13 nature and extent of the site.

14 This Project was able to avoid that site
15 before Phase II was needed. In other words,
16 this Project was able to design to avoid the
17 site based on our Phase 1-B findings.
18 Therefore, we did not go to that extra depth of
19 research because the site would not be impacted.

20 Q Can you tell me if that site qualifies under
21 Criteria D for listing on the State and National
22 Register?

23 A The site has not been evaluated under any
24 criteria. Rather, the site is called

1 "potentially eligible," And Phase II would
2 provide that evaluation. That evaluation was
3 not completed.

4 Q Since this was a cellar hole, a house site, was
5 any searching done for burial sites nearby?

6 A No. The archeological survey addressed the
7 entire corridor around the both sides, all three
8 sides, it's on the edge of the corridor, all
9 three sides of the site, and nothing indicated
10 that type of presence.

11 Q Are you aware that Durham had no public burial
12 site until 1926; therefore, everyone's buried
13 all over. We have over 80 known sites, burial
14 sites in town. Therefore, would you agree that
15 any house site that was on a farm dating from
16 before 1926 has a high potential of having a
17 burial site associated?

18 A It could be possible.

19 Q And yet it wasn't looked for?

20 A We looked for any archeological remains and none
21 were -- artifacts were found and that was it.

22 Q Would you agree that burial sites dating before
23 1800 are usually marked only by fieldstones?

24 A I think that's typical.

1 Q So are you saying that it's too difficult to
2 find the burial site associated with the house
3 because it's only marked by fieldstones?

4 A No. I'm saying we looked for any and every kind
5 of archeological resource when we did our
6 sampling and nothing of that sort showed up. We
7 keep our eyes open.

8 Q What time of year was your field survey
9 completed?

10 A I don't remember the exact date at that
11 location. I will say it's not winter, and as I
12 recall, it was not full summer either. There
13 wasn't a lot of brush overgrown. It was fairly
14 open. I'm going to hazard late spring, but I
15 don't remember exactly.

16 Q Well, my question is were the leaves out?

17 A No. Everything was visible.

18 Q There are sections of the easement that have
19 been trimmed back so many times that there are
20 very, very thick thickets of saplings or low
21 growth. How did you survey within those areas?

22 A Machetes.

23 Q You cut back sections?

24 A Yes.

1 Q And did you do that immediately south of the
2 LaRoche Brook?

3 A In terms of our transects for establishing our
4 grid to do our sampling, if there was brush in
5 the way, the field crew cuts it out.

6 Q How far apart were the test pits or the
7 transects?

8 A Eight-meter intervals as standard by DHR which
9 translates roughly to 25 feet.

10 Q And how many transects would there be across the
11 width of the easement?

12 A I'd have to look at the map to be sure but
13 multiple. I don't remember the number off the
14 top of my head.

15 Q So they're both oriented north and south as well
16 as east and west?

17 A That's correct.

18 Q There are several areas marked on the Eversource
19 maps as being sensitive areas. What does this
20 mean?

21 A Are you referring to the maps in the Appendix of
22 the MOU? The Appendix B in the MOU? It's
23 aerial photos with orange circles on them?

24 Q Yes.

1 A Yes. Those mark the culturally sensitive areas
2 that are to be paid attention to by the
3 construction manager -- monitor, rather,
4 construction monitor, the cultural resources
5 monitor and Qualified Archeological Professional
6 as part of the MOU. They are shown on the maps
7 and are to be, the locations are to be flagged
8 and/or fenced in the field prior to
9 construction.

10 Q If I remember, at least the maps I've seen, the
11 sensitive area by the quarries is across the
12 entire easement.

13 A Yes.

14 Q So how can they --

15 (Court reporter interruption; difficulty hearing)

16 Q The sensitive area around the quarry side, the
17 maps I've seen, the ellipse fills the entire
18 easement, 100 foot wide. How can that be fenced
19 off, you know, when the road goes through it?

20 A I'll have to answer that in a little bit of a
21 roundabout fashion. The orange circles on the
22 map are intended to be all-encompassing. And in
23 the quarry area, there are specific features
24 that are to be avoided. Features that reflect

1 quarrying activities, slabs of stone and the
2 like. Those are the features that will be
3 marked in the field, not the whole extent.

4 Q Does that include the quarryman's bench that we
5 identified?

6 A Yes.

7 Q It does.

8 A Yes.

9 Q Okay. And besides fencing these sensitive
10 areas, what about the blasting?

11 A I don't know the answer to that, and I want to
12 remind you that now this quarry area is no
13 longer under archeological study. It's part of
14 now the district and will be addressed by the
15 aboveground team.

16 Q In other words, Criterion D is dead and there's
17 only A, B, C now.

18 A Criterion D is never dead.

19 Q Well, you know what -- you would consider it
20 finished?

21 A Yes.

22 Q Okay. So it's the aboveground people.

23 A Yes, it is.

24 Q In that sensitive area.

1 A Yes. So I, unfortunately, I don't have that
2 information to answer that question thoroughly.

3 Q Did you find any evidence of bridges or
4 clapper-type granite bridges over any of the
5 streams that cross the easement?

6 A No.

7 Q Are you aware that there are three Indian
8 pathways that cross the easement?

9 A Yes.

10 Q And are those marked as sensitive areas?

11 A They're not. And testing did not reveal any
12 Native American sites anywhere for the entire
13 Project.

14 Q And did you know that Native American paths were
15 used by the colonists as well?

16 A Yes.

17 Q Did you find any colonial artifacts?

18 A No. The only artifacts of the historic period
19 were found at that one site that we just
20 discussed, the cellar hole site. Elsewhere,
21 nothing.

22 Q Well, if the transects resulted in holes every,
23 test pit holes ever 60 feet and the easement's
24 100 feet wide, that means there was one hole.

1 A Let me back up on that just a little bit,
2 please. The testing was not at 60 feet
3 intervals. The testing was at 8-meter
4 intervals. 8-meter translates to about 25 feet.
5 So there was a closer interval than 60 feet.

6 And the method is reliable. It is the
7 method promoted by Division of Historic
8 Resources, the method that I've used forever,
9 and it works.

10 Q Did you do test pit surveys along the Class VI
11 roads?

12 A No.

13 Q Why not?

14 A Because there was not proposed subsurface impact
15 in the road grade. In other words, the roads
16 were not planned for widening, ditching, that
17 sort of thing.

18 Q Well, it's my understanding they are intended to
19 have tons and tons of gravel dropped on top of
20 them so the heavy equipment can roll over them.
21 Wouldn't that tend to destroy the potential
22 underground archeology?

23 A I believe to the contrary, that filling over
24 something caps it and protects it.

1 Q What about the ditching along the sides of the
2 Class VI roads?

3 A That would be a subsurface impact.

4 Q Right.

5 A I'm unaware of that as a Project effect.

6 Q Well, the planned access road over Beech Hill,
7 the Beech Hill Class VI section involves an area
8 that has to have a culvert put into it because
9 it's wetlands.

10 A I'm sorry. I don't have an answer for you.

11 Q So if I understand what you said, the Samuel
12 Hill burial site in front of the field house was
13 not explored in any fashion except a walkover?

14 A Correct.

15 Q Okay. Have you used GPR or similar technology
16 to locate gravesites in the past?

17 A No, I have not.

18 Q Have you ever hired somebody to do it?

19 A No. I am aware of the technique.

20 Q Um-hum. Well, it's a widely used technique.
21 Yes. No further questions. Thank you.

22 A Thank you.

23 PRESIDING OFFICER WEATHERSBY: Thank you.
24 It's my understanding that Mr. Frizzell, Ms.

1 Frink, Fat Dog Shellfish, Nature Conservancy and
2 the Crowley Joyce Revocable Trust have no
3 questions for this witness.

4 Ms. Frink? Yes, you may. It would be
5 helpful if you could come to the lectern.

6 MS. FRINK: Thank you. This should be
7 brief.

8 **CROSS-EXAMINATION**

9 **BY MS. FRINK:**

10 Q Thank you. Ms. Bunker, I'm Helen Frink. I
11 represent the Darius Frink Farm in Newington and
12 you mentioned in your testimony that among the
13 documents that you researched were the records
14 of the National Register and the State Register
15 of Historic Places?

16 A Yes.

17 Q And in Newington, I assume that you read about
18 the Newington Center Historic District?

19 A Yes.

20 Q And you also located the Frink farm there as
21 part of the Newington Center Historic District?

22 A Yes.

23 Q Good. Thank you. Am I correct in assuming that
24 you did not find any archeological sites on the

1 farm?

2 A Correct.

3 Q And on the Pickering property, did you locate a
4 family graveyard?

5 A A family graveyard was observed on the abutting
6 corridor but outside, yes.

7 Q And the right-of-way there is 100-feet wide.
8 How wide was the area of your survey?

9 A A hundred feet.

10 Q A hundred feet either side of the corridor or
11 exclusively within the corridor itself?

12 A Within. Excuse me. Perhaps I'll answer in a
13 different fashion.

14 We surveyed the corridor against which the
15 cemetery lies, but we did not go outside the
16 corridor, but within the corridor we looked at
17 the whole width. Does that help?

18 Q I think that's -- I think that's good enough.
19 Yes.

20 And am I correct in assuming that stone
21 walls are outside of your purview, those are the
22 aboveground resources?

23 A Yes. That's right.

24 Q Thank you very much.

1 A You're welcome.

2 PRESIDING OFFICER WEATHERSBY: We will next
3 have Counsel for the Public.

4 **CROSS-EXAMINATION**

5 **BY MR. ASLIN:**

6 Q Good morning, Dr. Bunker.

7 A Good morning.

8 Q While I get set up, for the record my name is
9 Chris Aslin from the Attorney General's office
10 and I've been designated as Counsel for the
11 Public.

12 Thank you. I want to follow up on the
13 question that Ms. Frink was just asking you
14 about the area that you studied commonly called
15 the APE; is that correct?

16 A Yes.

17 Q And for this Project, for archeological
18 resources, the APE was defined as the corridor,
19 the right-of-way corridor itself?

20 A Yes. Entire length, entire width, top to
21 bottom.

22 Q And did the APE include access roads or laydown
23 areas or marshalling yards?

24 A As they came forward, they were added on.

1 Q In terms of, well, I believe you also did some
2 review of abutting properties; is that correct?

3 A Yes. As part of the SEC process, we did a desk
4 review of abutting properties.

5 Q And by desk review, that means a paper review;
6 is that correct?

7 A Yes.

8 Q So no actual field work or field surveys outside
9 of the APE?

10 A No.

11 Q Can you describe for me what that desk review
12 entailed?

13 A Yes. It was based on a 100-foot-wide stripe
14 along the corridor margins. It was not, it did
15 not include either off right-of-way components
16 as we just mentioned such as access roads. It
17 was the corridor, per se. And the review was
18 based on available information from Division of
19 Historic Resources site, statewide site
20 recording files, which were measured off to see
21 whether or not any recorded sites in the DHR
22 inventory fell within that 100-foot stripe. We
23 also looked at recorded cemeteries or graveyards
24 that fell within that stripe.

1 Q Okay. So if I can paraphrase that, essentially
2 you looked a hundred feet to either side of the
3 right-of-way and examined existing records of
4 previously recorded archeological resources and
5 cemeteries --

6 A Yes.

7 Q -- to see if they occurred in that strip.

8 A Correct.

9 Q And so anything that was not already recorded by
10 DHR or in the resource used for cemeteries,
11 anything that exists that's not recorded that is
12 in that strip would not have been found in the
13 desk review?

14 A That's right.

15 Q Does the desk review differ from a Phase 1-A?

16 A Yes. It's more specific and looks to answer one
17 specific question, not to establish a broad
18 interpretive background context. It also did
19 not involve a walkover inspection which is part
20 of Phase 1-A.

21 Q Thank you. And just to go over the various
22 phases, is the nomenclature for Phase 1-A and
23 Phase 1-B, is that specific to the 106 process
24 or is that a broader usage?

1 A Both. It's, yes. It's the natural sequence of
2 events for archeological survey which cascades
3 step to step.

4 Q And in this case, you, for various portions of
5 Project, well, I'll back up. For the entirety
6 of the corridor and some access roads, and I
7 guess marshalling areas and laydown yards,
8 marshalling yards and laydown areas that have
9 been done so far you conduct a Phase 1-A review?

10 A Yes.

11 Q And for specific areas that were identified in
12 the Phase 1-A process as potentially sensitive
13 areas, you conducted a Phase 1-B review?

14 A Yes.

15 Q And that's the part that entails field survey,
16 test pits, et cetera?

17 A Yes.

18 Q And if I understand correctly from your
19 testimony, you did not proceed beyond the Phase
20 1-B level for any site?

21 A Correct.

22 Q We'll come back to the LaRoche cellar hole in a
23 minute.

24 A Okay.

1 Q Some of my questions have been asked already.
2 So I'll skip through.

3 So to the extent that the, to the extent
4 that the APE was defined as a corridor, that's
5 for direct effects, correct?

6 A Right.

7 Q And with archeological resources, there really
8 are no indirect effects.

9 A Right.

10 Q Because nothing, which is typically visual
11 effects?

12 A That's correct.

13 Q And does your review for archeological resources
14 take into account vibration impacts?

15 A No.

16 Q In your professional opinion, can vibration from
17 construction activities impact archeological
18 resources?

19 A I have no background in that. I don't expect a
20 resource that's been in place to be affected
21 that way for this Project.

22 Q So it's not part of your normal review of
23 archeological resources?

24 A No.

1 Q Does that change in any way if there's blasting
2 or other kind of high impact construction
3 activities involved in a Project?

4 A I don't know.

5 Q Would you agree that if an archeological
6 resource existed just outside of the APE and it
7 was not a recorded resource so it wasn't
8 identified through your desk review, that if
9 blasting were to occur within the corridor it
10 might have an impact on that resource, depending
11 on what it is?

12 A It's a lot of "ifs" in that.

13 Q There is. I can ask it in a different way.

14 Do you have an opinion about whether
15 vibration impacts can ever have an impact on
16 archeological resources?

17 A I've never seen this happen.

18 Q Would you be aware of it if it's an unknown
19 resource outside the APE?

20 A Probably not.

21 Q Okay. In this, in your review you've also
22 identified some burial ground cemeteries that
23 are in proximity to the corridor. Is that
24 correct?

1 A Yes, it is.

2 Q And I believe there are none that are within the
3 corridor.

4 A That's right.

5 Q Similar question. Do you have an opinion about
6 whether vibration effects or vibration from
7 construction can have an impact on cemeteries or
8 burial grounds?

9 A I have no information on that. I don't know.

10 Q It's not something that you commonly review?

11 A No.

12 Q You are aware that there is a state statute that
13 restricts construction, I believe it says work,
14 but I may be fudging that a little bit, but
15 there's a restriction, a buffer that's imposed
16 around cemeteries in burial grounds; is that
17 correct?

18 A Yes.

19 Q And that's a 25-foot buffer?

20 A Yes.

21 Q Do you have an understanding of why that buffer
22 exists under state law or what the purpose of
23 that buffer might be?

24 A Yes. I do. That would be to protect the

1 interments of any individuals that were buried
2 outside cemetery walls.

3 Q Okay. Is it also to protect cemetery walls
4 themselves and potentially the archeological
5 resources within the cemetery from impacts?

6 A Yes, it keeps people away so that damage would
7 be prevented.

8 Q But in your experience, vibration construction
9 is not one of the considerations that's focused
10 on?

11 A I have not considered it.

12 Q Thank you. Now, I believe your Phase 1-B study
13 was based on the identification of 22 sensitive
14 sites in Durham and 8 in Newington; is that
15 correct?

16 A Yes.

17 Q That would be 30 total? 22 --

18 A 22 and 8 is 30. Yes.

19 Q In some parts of the testimony, I saw references
20 to 28 sensitive sites?

21 A Well, there was an add-on in Newington and two
22 locations were added for a little route change.
23 That's why I was counting on my fingers also.

24 Q So 30 is probably the right number?

1 A I believe so.

2 Q Okay. And with regard to the Edgerly Farm
3 site --

4 A Yes.

5 Q -- or area, have you conducted a subsequent
6 Phase 1-B, a Supplemental Phase 1-B for that
7 area?

8 A That's correct.

9 Q And that was an area that was identified by the
10 Historic Association?

11 A Yes.

12 Q And not something that you had initially
13 identified through your Phase 1-A survey?

14 A Initially identified sensitivity areas adjacent
15 to it but not that specific pinpoint that they
16 had identified which is why we went back to do
17 that one supplemental.

18 Q So of the 30-ish sensitive sites that were
19 reviewed, I said "ish" because Edgerly Farm
20 sounds like it may have been adjacent to ones
21 either additional or part of something that was
22 done already, of those, your testimony was that
23 two sensitive sites, your Phase 1-B survey found
24 artifacts, evidence of potential archeological

1 resources?

2 A Yes. That's what the testimony says. I'd like
3 to elaborate.

4 Q Okay. And I think we're going to hear about the
5 quarry site; is that the distinction?

6 A That's correct. So really, when it comes down
7 to it, we're now talking about one.

8 Q Okay. And the reason for that, I think you
9 testified to this to some extent earlier, the
10 quarry site was determined to be an aboveground
11 resource and not an archeological resource?

12 A Right. Yes.

13 Q Am I correct that your Phase 1-B survey of that
14 site did not include test pits?

15 A In the quarry?

16 Q In the quarry area.

17 A We did mapping, surface examination mapping,
18 photography and recording of visible features,
19 but we did not dig into the exposed bedrock
20 ledge. No.

21 Q Okay. And is the entire area exposed bedrock?

22 A Pretty close.

23 Q That would explain that. So that's part of the
24 basis for identifying it as aboveground then?

1 A Yes. Exactly.

2 Q Thank you. So I'd like to talk a little bit
3 about the LaRoche cellar -- I guess it's called
4 the LaRoche Brook Wetlands Cellar Hole Site.
5 And I understand this is a sensitive
6 archeological resource so we need to be a little
7 bit careful about identifying the specific
8 location. Is that fair?

9 A That's great, and I'll do my best to not go too
10 far.

11 Q And I think I can get through my questions
12 without needing to pull up exhibits that would
13 identify that location, but if not, we'll have
14 to go into confidential session.

15 This area is, so it's a cellar hole.

16 A Yes.

17 Q And it's within the right-of-way, correct?

18 A Yes.

19 Q And you've performed a series of test pit
20 transects?

21 A Correct.

22 Q And identified at least some of those identified
23 archeological artifacts?

24 A That's right.

1 Q And I believe that those, that the test pits
2 that you dug that had archeological artifacts
3 extended across the entirety of the
4 right-of-way; is that correct?

5 A Well, there is distribution of artifacts in the
6 survey area across the right-of-way, but the
7 concentration and the clustering of them are
8 within the cellar hole foundation feature and in
9 very close proximity to it.

10 Q I believe that you defined the archeological
11 site as a hundred-foot square area?

12 A That sounds about right.

13 Q Was that area centered around the cellar hole?

14 A Yes.

15 Q And I believe the cellar hole is not centered in
16 the right-of-way; is that correct?

17 A Correct. It's on one margin.

18 Q So the hundred foot -- and the right-of-way in
19 that area is a hundred feet wide?

20 A Yes.

21 Q So if I understand what you've just testified to
22 and the documentation, the hundred foot site
23 extends outside of the right-of-way on one side
24 and does not cover the entirety of the

1 right-of-way?

2 A I really have to look at the map to show you.
3 However, in general terms, as I mentioned
4 before, the artifact distribution drops off to
5 that other side of the corridor, and it drops
6 off along the corridor away from it, and the
7 concentration is really on one half of the
8 corridor. Therefore, the site can be
9 efficiently and confidently avoided.

10 Q Okay. That's where I'm going. Just for the
11 record, this part, this Phase 1-B survey is
12 Applicant's Exhibit 178, and it's pages 21 to 23
13 I believe are where those diagrams exist so if
14 you want to follow along on the Committee. I
15 believe you have those documents. We can't
16 project them because they're confidential
17 information.

18 So your recommendation for this site was
19 avoidance; is that correct?

20 A Yes.

21 Q And to do that, you've said that the access road
22 that cuts through the right-of-way in that
23 location will be moved to one side?

24 A To the opposite margin.

1 Q And I believe there's also a structure proposed
2 in the vicinity, not within the hundred foot
3 site but within the vicinity of the site?

4 A Yes, and that falls outside, yes.

5 Q Do you have a, sitting right here, do you know
6 how far away that structure is from the --

7 A No, but it's beyond that 25 feet comfort zone.
8 And I don't, I don't remember.

9 Q Okay. We might come back to that. You're aware
10 that structures have a work pad area?

11 A Yes.

12 Q For example, on the screen is a page, I think
13 I'm the first page, Applicant's Exhibit 148,
14 which are the, I believe, final revised
15 environmental maps, and this is map 1, and you
16 can see the pink squares represent work sites
17 that are around structures.

18 A Yes.

19 Q And that work area is, I believe, I can't recall
20 exactly how big they are, but I want to say a
21 hundred feet. So to the extent that a structure
22 is proposed near the archeological site, there's
23 going to be work around it. Are you aware of
24 whether the Applicant has adjusted the work site

1 for that structure that's in the vicinity to
2 move it farther away from the archeological
3 site?

4 A That's a construction topic, and my information
5 would have been integrated so I don't know how
6 far or to what extent it was moved.

7 Q Okay. But when you said in your testimony that
8 the access road and the structural location are
9 being either are or are being moved outside of
10 the archeological site area, that's how
11 avoidance is proposed to take place?

12 A Yes. That's right.

13 Q And based on that approach, your position is,
14 and I believe DHR has concurred, that this site
15 will not be impacted by construction?

16 A Yes.

17 Q And that's the reason that you have not gone on
18 in the process to a Phase II review.

19 A Right.

20 Q It may be worth coming back in a brief
21 confidential session with that, but I'll go
22 through my other questions first.

23 In addition, we talked a little bit earlier
24 about access roads and off-corridor review.

1 A Um-hum.

2 Q And you did a Phase 1-A study of five access
3 roads; is that correct?

4 A In Durham, yes.

5 Q And that's, it appears that's Applicant's
6 Exhibit 174 for the record.

7 Are you aware that there are more than five
8 access roads proposed for this Project?

9 A No.

10 Q How did you come up with the five that you were
11 going to study in this off-corridor Phase 1-A?

12 A They were assigned to me by Normandeau
13 Associates.

14 Q And let me show you -- so on the screen is
15 Applicant's Exhibit 148, and this is page 2
16 which is map 2 of the environmental maps. And
17 do you see on the left-hand side, well, just
18 left of center is Route 4. Do you see that?

19 A Yes.

20 Q Okay. And to the left of that, do you see a
21 dotted red line which represents an access road?
22 And if you look down at the key, the dotted red
23 line?

24 A Yes. I see it.

1 Q So there's an access road, and it originates
2 from what is labeled at Beech Hill Road?

3 A Yes. If you pardon me, may I refer to my list
4 of reports?

5 Q Yes. Of course.

6 A Thank you. Which I left behind. I'm digressing
7 because the five access roads were a recent
8 report, but there was an earlier off
9 right-of-way report that dealt with a number of
10 things. There were some route changes and a
11 couple of access roads in that, and I fear that
12 that number five not have been accurate. And if
13 this is Beech Hill Road, that's what triggered
14 my recollection of perhaps an earlier survey.

15 Q Okay. And I may have overlooked an earlier
16 survey. So let me try this.

17 Would you agree that in your most recent
18 off-corridor Phase 1-A report, there were five
19 access roads reviewed?

20 A Yes.

21 Q And that's Applicant's Exhibit 174. And would
22 you also agree that Beech Hill Road or this
23 access road off Beech Hill Road is not one of
24 those five in the most recent?

1 A Yes.

2 Q Okay. But it may have been included in a prior
3 report?

4 A Yes.

5 Q I see. Would the same go for the access roads
6 off of Mill Road? So if you could see on the
7 screen, this is Environmental map 7 in the same
8 exhibit, 148, and there is a access road on the
9 bottom of the page heading north which is to the
10 left off of Mill Road?

11 A Yes.

12 Q And then there's also one above that to the east
13 of the railroad.

14 A By the water tower.

15 Q No, I'm speaking of the smaller, short access
16 road that's shown above the railroad on the page
17 which is east.

18 A Oh, I see it now. Yes.

19 Q Are you aware of whether either of those access
20 roads were reviewed by you in either the earlier
21 or the, well, I'll represent they're not in the
22 Exhibit 174, but were they reviewed at any time
23 by you?

24 A I recall the longer lower one. I would have to

1 look at the report to confirm that shorter one.
2 I don't remember.

3 Q Okay. Is there any reason that you would not
4 want to have reviewed all of the proposed access
5 roads for potential archeological impacts?

6 A Yes, there is a reason why some would not want
7 to be reviewed, and that reason is evidence of
8 extreme prior impact.

9 Q Okay. So, for example, if we go back to page 1
10 of the maps. This is Map 1 in Exhibit 148.
11 There's an access road coming off of Madbury
12 Road that appears to follow a driveway. Would
13 that be an example?

14 A That's an example. Yes. Is that the one that
15 goes to a residential development?

16 Q No. That's a single house.

17 A Okay.

18 Q Now, in Exhibit 174, which is confidential so we
19 won't open it up, but there is on page 61
20 discussion about a cellar hole that is
21 identified near Durham Point Road or near the
22 access road from Durham Point Road.

23 A Yes.

24 Q Are you familiar with that? Do you know how

1 close to the access road that cellar hole is?

2 A Again, I'd have to look at the field sketch map
3 to be sure. As I recall, there's a slope and it
4 drops away and it's outside it, it doesn't touch
5 it, but I don't know how many feet.

6 Q Okay. It was unclear to me looking at the
7 report.

8 And again, we went over this, but with
9 regard to a cellar hole, is vibration from
10 construction a concern if you have stone wall
11 that makes up the cellar hole that could be
12 disturbed through vibration impacts?

13 A I've not addressed that.

14 Q Okay. Would that be something that the
15 aboveground resources review would address?

16 A That's typically in their department, not mine.

17 Q But would they address a cellar hole?

18 A Probably not.

19 Q So there may be a gap. Thank you.

20 I want to talk a little bit about the MOU
21 that was referenced earlier, and for the record,
22 it appears -- I'll just pull it up. It's part
23 of Applicant's Exhibit 165, and it starts at
24 page 356 of that long document. And you

1 testified earlier about the parties to that
2 agreement being DHR and the Applicant and did
3 you also include municipalities?

4 A I didn't include that because I couldn't
5 remember if they were included or not.

6 Q Okay. Looking at this document, does that
7 clarify that for you? I'll scroll down if you
8 want me to.

9 A I don't see towns listed here.

10 Q I didn't either. So I think we've cleared that
11 up then.

12 A Thank you.

13 Q Sure. And you referenced, there was some
14 discussion about the appendices to this MOU
15 which Appendix C which has some of the plans; is
16 that correct?

17 A Yes.

18 Q Those start, I believe, on page 370.

19 A Yes.

20 Q Okay. Of Applicant's Exhibit 165. One of the
21 pieces that's included in both the Historic
22 Properties Protection Plan, I probably just got
23 that wrong, but in a couple other plans, we'll
24 go that way, is environmental monitors that are

1 to be out in the field assisting with
2 identification of issues. Is that a fair
3 statement?

4 A Yes.

5 Q And those environmental monitors in the context
6 of archeological resources are serving the role
7 of looking on the ground at issues that arise?

8 A And looking at areas that are earmarked for
9 concern like avoidance of a cellar hole.

10 Q Okay. And there's a statement, I think you
11 testified earlier that you're not involved in
12 the management of those environmental monitors?

13 A No. I don't think anyone's been decided upon
14 yet.

15 Q So that's something that would happen after the
16 certificate was issued if it's issued and the
17 Project was moving towards construction?

18 A I believe that's true.

19 Q Okay. Are you, do you anticipate being involved
20 in that process?

21 A I have no knowledge.

22 Q You've not been retained for that?

23 A No. I have not.

24 Q In other projects, have you been involved in

1 that part of the project?

2 A No. I have not.

3 Q So your role typically is in the preconstruction
4 surveys?

5 A Yes.

6 Q Okay. The MOU references environmental monitors
7 being assigned to, quote, "manageable sections,"
8 unquote, of the right-of-way or of the Project.
9 Do you have any experience or knowledge of what
10 that might be in terms of size?

11 A No. You mean like number of miles or towns? I
12 don't know.

13 Q Okay. Save that for another panel.

14 Similarly, how many environmental monitors
15 might be needed, that is not something that you
16 know.

17 A I don't know.

18 Q Both the Historic Properties Monitoring Plan and
19 the Unanticipated Discoveries Plan identify a
20 number of personnel roles. And I wanted to just
21 talk through some of those to the extent you
22 understand or have experience with those roles.
23 There's something called a cultural resource
24 specialist?

1 A Yes.

2 Q Are you familiar with that designation?

3 A Yes.

4 Q Do you have an understanding of what the
5 responsibilities of the cultural resource
6 specialist are?

7 A To implement the MOU and this Appendix as
8 needed.

9 Q Okay. And then there's a cultural liaison?

10 A Yes.

11 Q How does that role differ from the cultural
12 resource specialist?

13 A I believe it's a more day to day and more
14 training oriented.

15 Q Okay. And environmental monitors we discussed
16 already. And then there's a construction site
17 supervisor. Are you familiar with that role?

18 A I don't know who that would be.

19 Q Are you familiar with what the responsibilities
20 of that person would be or persons?

21 A Yes.

22 Q Okay. Can you summarize them?

23 A It's a responsibility to maintain these
24 measures. It's a communication role is what I

1 would call it.

2 Q Okay. Would you agree that the construction
3 site supervisor is probably the one who's
4 responsible for halting work in the case of an
5 unanticipated discovery?

6 A Yes.

7 Q There are also two qualified people. There's a
8 Qualified Professional Archeologist and a
9 Qualified Architectural Historian. I presume
10 those are distinguishing aboveground and below
11 ground resources?

12 A Right.

13 Q So Qualified Professional Archeologist, I think
14 you testified earlier that you don't know who
15 will be chosen or what the process is for that
16 selection?

17 A That's true.

18 MR. ASLIN: Madam Chair, I think what I
19 would like to do is do a very brief confidential
20 session to take a look at some of the maps for
21 the LaRoche Brook cellar hole site which are
22 confidential and may require --

23 PRESIDING OFFICER WEATHERSBY: I think what
24 we'll do then is take a ten-minute break. When

1 we come back, just folks who have signed an
2 agreement or I need to -- we'll need to figure
3 out who stays in the room and who does not.
4 We'll work all that out during the break, and
5 we'll have a confidential session immediately
6 following.

7 MR. ASLIN: Thank you. For planning, I
8 have maybe two or three minutes.

9 (Recess taken 10:24 - 10:40 a.m.)

10 *(Pages 69 through 92 of the*
11 *transcript are contained under*
12 *separate cover designated as*
13 *"Confidential and Proprietary.")*

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1 (Recess taken 11:20 - 11:33 a.m.)

2 PRESIDING OFFICER WEATHERSBY: Ms.
3 Mackie, you may come back up to the podium
4 because we're going to start with you, and I'll
5 tell everyone what's happened.

6 Okay. So during the period that the rest
7 of you weren't here, you were either on break or
8 during the confidential session, two things.
9 One is the Committee has decided as a procedural
10 matter that all questioners should come and use
11 the podium. The reason for that is folks are
12 asking questions from other places in the room,
13 the witness is facing them and not us, and it's
14 helpful for us to see the facial expressions,
15 body language, et cetera, and also we can better
16 understand the witness.

17 There's also an issue with the stenographer
18 having a difficult time when the questioners are
19 in other parts of the room and cannot be seen.
20 So for that reason, we are requesting that all
21 questions be presented from the lectern.

22 The other thing that happened was that Ms.
23 Mackie asked some confidential questions during
24 the confidential session. She had questions

1 that were not necessarily confidential, but
2 there was a misunderstanding as to what was
3 confidential and what wasn't so we're going to
4 give her an opportunity now to continue her
5 questioning on questions she would have asked
6 before but she thought they were confidential
7 concerning the confidential matters so Ms.
8 Mackie, you may continue.

9 **CROSS-EXAMINATION**

10 **BY MS. MACKIE:**

11 Q Thank you. Concerning the Nathaniel Norton site
12 as identified in our testimony, would you please
13 explain how you survey a cellar hole in terms of
14 digging test pits?

15 A Nathaniel Norton, you mean -- I thought we
16 already did that one.

17 Q We're supposed to do it for the public.

18 A Nathaniel Norton, the Nathaniel Norton location
19 is -- I'm sorry. I'm very confused. Could you
20 repeat the question again, please?

21 Q The methodology used to survey a cellar hole or
22 a depression in the ground lined with rocks.
23 What's the standard procedure for doing the test
24 pits in a cellar?

1 A The standard procedure for a cellar hole is to
2 use the regular grid which is an 8 meter
3 interval coupled with judgmentally placed tests
4 as needed to explore certain features and
5 components. There's no set designation as to
6 where those tests have to go in terms of the
7 cellar hole, whether they're inside it or
8 adjacent to it, outside it, whatever seems as
9 best professional judgment at the time to
10 address the resource thoroughly.

11 Q Thank you.

12 A You're welcome.

13 Q Concerning the first contact site, the Edgerly
14 Farm, that's basically between Durham Point Road
15 and Little Bay?

16 A Yes.

17 Q Can you tell me where the test pits were dug in
18 that area?

19 A Yes, I can. First I'd like to call to the
20 attention of people listening to our discussion
21 that this is not considered an archeological
22 site. And I just want to address the word
23 "site." Site to an archeologist means the
24 location where past human activity is

1 demonstrated by artifacts or features in the
2 ground in a subsurface condition with
3 stratigraphy, with context, with recognizable
4 objects or items that reflect past human life
5 activities and settlement. To use the word site
6 can be confusing to me because that's how I
7 think of a site, when, in fact, I would like to
8 call this the Edgerly Farm location or area.

9 Having said that, the initial struggle test
10 sampling strategy was conducted in 2016 in a
11 sensitivity area near the one that was defined
12 as the Edgerly area by the Durham Historic
13 Association and nothing was found. Upon review
14 of the Durham Historic Association information,
15 the area of concern was identified vis-a-vis the
16 APE, that is the existing corridor. The
17 strategy for testing only within the Durham
18 Historic Association zone was the same as the
19 strategy for every other part of the Project.
20 That is a baseline transect, which we call the
21 principal transect, pulled out along the center
22 and then tests pulled towards the corridor
23 margins from that baseline.

24 In this case, testing was conducted on all

1 the terrain adjacent to and overlooking a series
2 of wetlands.

3 Q So if I understand that, it was, there were no
4 test pits dug on the higher ground near the
5 Fitch house?

6 A I don't know this fish house.

7 Q Well, the access road Eversource will be using
8 that crosses the right-of-way there. It's on
9 the north side. The high ground on the north of
10 the access road.

11 A I don't know about this fish house, and I don't
12 know where you mean.

13 Q The power lines comes across Durham Point Road
14 and enter a field.

15 A They enter a wetland.

16 Q Oh, you mean the swamp beforehand. It didn't
17 used be a swamp. It used to be a field. But
18 I'm not talking about not that area but the next
19 area.

20 A It's grassy. Open grassy landscape.

21 Q And did you do test pits on the high ground in
22 that field?

23 A Absolutely.

24 Q You did.

1 A Yes.

2 Q Okay. I didn't see maps that indicated that.
3 Did you go back and do them later?

4 A This was a Supplemental Phase 1-B survey
5 conducted in June 2018.

6 Q I guess I wasn't shown that report. That was my
7 question. Thank you very much.

8 A You're welcome.

9 PRESIDING OFFICER WEATHERSBY: Do members
10 of the Committee have any questions for Ms.
11 Bunker? Director Muzzey?

12 QUESTIONS BY DIR. MUZZEY:

13 Q Good morning.

14 A Hello.

15 Q Earlier this morning you described the thought
16 process and the methodology used to address
17 Little Bay and the immediate margins of Little
18 Bay, and you mentioned the strong currents in
19 the area, the tidal actions, various flood
20 events. Could you speak to in general how that
21 type of action, those types of events affect the
22 possible presence of archeological sensitivity
23 or artifacts?

24 A Sure. The channel -- I've started talking and

1 now I have to back up. I apologize.

2 There are several subjects that you, that
3 come to mind to answer your question. One
4 effect of currents and such is to scour the
5 bottom and remove or replace sediments where
6 sites could have been. The channel here is
7 steep and it's fast. Therefore, the
8 understanding is low to no probability for sites
9 down in the bottom.

10 But your question makes me think of another
11 avenue of inquiry, and that is the topic of sea
12 level rise in the early Holocene in which
13 original land forms would have been inundated
14 and there can be archeological sites under
15 seawater. However, going back to the
16 configuration of the channel here, we determined
17 that that would be unlikely, again, given its
18 bottom configuration and the changes through
19 time from say 13,000 years ago to present.

20 Q Thank you.

21 A You're welcome.

22 Q I also had a question regarding Wagon Hill Farm
23 in Durham?

24 A Yes.

1 Q In some of the materials submitted, there's been
2 a suggestion of some shoreline stabilization
3 that may occur there as part of a potential
4 mitigation package with the Town of Durham. I
5 think this information is still in draft form
6 and being worked on by all the parties. But if
7 that type of mitigation is suggested at Wagon
8 Hill Farm, can you give an opinion as to whether
9 you feel some sort of archeological review
10 should also be done?

11 A My opinion on any future Project components is
12 that unless it's an area of extreme prior impact
13 that archeological survey would be warranted,
14 and I believe that's referenced in one of my
15 testimonies.

16 Q Okay. Thank you.

17 A You're welcome.

18 Q Just to follow up on that, you had mentioned
19 "extreme prior impact." For this type of
20 Project, is that something the archeologist
21 would give an opinion of or is that just a
22 common layperson's opinion as to the degree of
23 impact?

24 A For this Project so far, it's been my

1 interpretation. For example, I can give you an
2 example of a place in this Project area where
3 there is extreme prior impact, and that's the
4 margins of the still-under-construction
5 Spaulding Turnpike.

6 Q Okay. Great. Thank you very much. Those are
7 my only questions.

8 A Okay.

9 PRESIDING OFFICER WEATHERSBY: Mr. Schmidt?

10 **QUESTIONS BY MR. SCHMIDT:**

11 Q I have a very quick general question. Could you
12 explain the difference between shovel testing
13 and test pitting?

14 A Thank you. When I talk about it, they're
15 interchangeable. For archeological survey, a
16 shovel test pit is hand excavated using a shovel
17 by hand. It measures 50 centimeters square.
18 It's dug to stratigraphic depths or refusal by
19 cobbles or water or some other event, and
20 they're arranged on a grade within the study
21 area, and that is a shovel test, a test, a
22 shovel test pit, it all means the same thing.

23 Q And that grid is the 8 meter grid that you
24 referred to earlier?

1 A That's correct.

2 Q Okay. And so the depth is specific on the
3 location, what you find at that particular test
4 pit?

5 A Yes. The depth depends on the soil textures
6 and, you know, if you hit ledge or bedrock very
7 shallow, a test might only go a few centimeters
8 deep.

9 Q Thank you.

10 A You're welcome.

11 PRESIDING OFFICER WEATHERSBY: Mr.
12 Fitzgerald?

13 MR. FITZGERALD: Yes. Thank you.

14 **QUESTIONS BY MR. FITZGERALD:**

15 Q Good morning. Earlier today you spoke to some
16 degree about the potential importance of local
17 citizens and other information that's more
18 localized, but then I believe that you indicated
19 that you had relied on information that was
20 provided by the Durham Historical Association
21 but had not specifically met with them or
22 discussed that. Is that kind of a standard
23 procedure? How do you usually interface with
24 local historical associations or commissions,

1 whatever?

2 A Right. The, in this case, first to clear up
3 your first part of the question, is I did use
4 the information provided by them, but there was
5 more than just a package of information in an
6 email or on a piece of paper. The information
7 was, there was a great deal of dialogue between
8 the company, between the Project, and the Durham
9 Historic Association on numerous topics, and
10 another archeologist collected information in
11 discussions and in the field. His name is Mark
12 Doperalski. He is the former Cultural Resources
13 Manager position person at Eversource. He's now
14 left that to become the New Hampshire State
15 Archeologist.

16 At any rate, Mark met with the Durham
17 Historic Association, did walkover surveys and
18 his findings from those visits were integrated
19 with my -- in other words, Mark and I talked a
20 lot also.

21 Q Okay.

22 A This is all very typical, to answer your second
23 question.

24 Q Okay. So basically based on his credentials and

1 ability, you relied on --

2 A Yes.

3 Q -- on his information in interfacing with the
4 Durham Historical Association?

5 A Yes, I did.

6 Q Okay. Lastly, I may be confused, but with
7 regards to the last site that you had an
8 interchange with that was variously
9 characterized as a cellar hole or a ditch, I
10 believe I heard you at one point say that it was
11 partially a ditch or did you characterize the
12 entire site as a ditch? I thought at one point
13 I heard you say something about "partially."

14 A Yes. I can explain that. Again, I want to call
15 this an area, not a site.

16 Q Right. Okay.

17 A Just because that's my vocabulary and I'll get
18 myself confused.

19 Q I don't speak the language.

20 A That's okay. The terrain and topography out
21 there is sloping and very rocky, extremely
22 rocky, and it slopes down a hill to a wetland.
23 There are numerous stones on the ground surface.
24 Some of them are large. Others are more boulder

1 or cobble size. The area of concern has been,
2 is a channel, is a runoff drainage ditch, it's a
3 ditch, that has some rocks on the ground surface
4 near it, and it has trees and it has piles of
5 rocks on the other side of it. I do not know
6 how this was created. I do not know if it's a
7 modern creation or if it's hundreds of years
8 old. It's got water in it. It's got eroded
9 soils. It's got cobbles and pebbles that have
10 tumbled. To me, it looks like the kind of place
11 that water flows downhill. I'm not calling it a
12 historic feature. Does that help?

13 Q Yes. Very much.

14 A Okay.

15 Q I guess, in your review of information from the
16 DHA, Durham Historical Association, did you see
17 that they had a particular reason for thinking
18 this was a cellar hole? Was that information
19 taken into account?

20 A They conducted a walkover inspection with the
21 former review and compliance officer, Division
22 of Historic Resources Edna Feighner, and with
23 Mark Doperalski and other participants. I don't
24 remember the names.

1 Q Okay.

2 A And during that walkover, it was noted that
3 there are some large stones arranged on the
4 ground surface that might lead someone to think
5 that they had been part of a foundation. And so
6 as a result of that field inspection, it was
7 decided by the Project to go above and beyond my
8 original testing. I had already done, my
9 company had already done testing in that area
10 and found nothing, and based on that inspection,
11 it was determined that the company would be
12 willing to go back and really reconfirm the
13 original findings. So we did the Supplemental
14 1-B, tested it. We found no evidence, no
15 artifacts, no soil, textural change. You've
16 already read the report. I'm sorry. Thank you.

17 Q Thank you. That's it.

18 PRESIDING OFFICER WEATHERSBY: Any other
19 Committee members have questions? Mr. Way?

20 **QUESTIONS BY DIR. WAY:**

21 Q Good morning.

22 A Good morning.

23 Q I was just following up on what Director Muzzey
24 was saying about the currents, that was

1 interesting, that you brought up at the start of
2 your testimony. And you made the determination
3 that it wasn't safe to send staff down to do any
4 inspection, and I was just wondering, the
5 current being an issue but was visibility also
6 an issue in terms of being able to see or is
7 that a problem, is it just the current?

8 A From my perspective it was -- I was thinking of
9 the safety of my staff and I just wasn't willing
10 to have anyone dive, and I also felt that the
11 archival evidence was sufficient and answered
12 the question at hand. So visibility didn't
13 really play into it.

14 Q Okay. Very good. Another question regarding
15 during construction as you mentioned, if
16 something is encountered the construction site
17 supervisor can stop work?

18 A Yes.

19 Q With regards to the training that happens prior
20 to that, to the extent that you can answer or
21 you have knowledge, how will they know what
22 they're looking for? What is the level of
23 training to give assurance like, for example,
24 when we talk about unmarked graves, how will

1 they know if they've actually encountered
2 something like that during an actual
3 construction activity.

4 A Yes. The training plan has not been written so
5 I do not know specifics of what exact subjects
6 will be addressed in it. So I can only answer
7 that very generally. And typically, a training
8 seminar will be very hands-on, will show people
9 actual objects and artifacts, will have plenty
10 of illustrations of soil in the ground. How it
11 looks as an archeological site. Soil
12 discoloration, soil staining, changes in
13 texture, alignment of stones, those topics are
14 typically covered, and I would expect that that
15 would be part of the training.

16 Q In your experience, have you found that that
17 training has actually been effective?

18 A Yes. I've found that construction personnel are
19 eager to learn and find it interesting and want
20 to be able to contribute.

21 Q Thank you very much.

22 A You're welcome.

23 PRESIDING OFFICER WEATHERSBY: I have one
24 question concerning the LaRoche Brook cellar

1 hole --

2 A Yes.

3 Q -- area, site. I understand from your
4 conversation with Attorney Aslin that the cellar
5 hole itself will be about 20 feet or so from the
6 work area and that you do not have concerns that
7 that cellar hole will be damaged as a result of
8 the activities. But we've also heard testimony
9 that there are artifacts related to that cellar
10 hole that are throughout the entire width of the
11 corridor.

12 A Yes.

13 Q Am I correct that it is likely, therefore, that
14 while access roads or any activities with this
15 Project are going through that area that some of
16 those artifacts will be disturbed?

17 A It would be the decision of the Cultural
18 Resources Manager to address that kind of a
19 question. And disturbance of things in the
20 ground can be avoided by putting down protective
21 layers of perhaps fill or gravel to cushion
22 equipment in that type of an area on an access
23 road. But the primary objective to avoid the
24 site will be flagging of the cellar hole feature

1 and its immediate surrounds where the higher
2 density of artifacts were found.

3 Q So that you don't have a serious concern that
4 the artifacts related to this cellar hole will
5 be negatively impacted.

6 A I don't have a serious concern based on their
7 distribution, the type of artifacts, and the low
8 artifact density.

9 Q Okay. Thank you.

10 A You're welcome.

11 PRESIDING OFFICER WEATHERSBY: Any other
12 questions from the Committee?

13 *(No verbal response)*

14 PRESIDING OFFICER WEATHERSBY: Any
15 redirect, Attorney Needleman?

16 **REDIRECT EXAMINATION**

17 **BY MR. NEEDLEMAN:**

18 Q Dr. Bunker, earlier Ms. Mackie asked you about
19 the Samuel Hill gravesite, and am I correct that
20 you considered the information that her
21 organization provided on that site?

22 A Yes, that's right.

23 Q Age what did that information consist of?

24 A There was a brief quotation from an early 20th

1 century document that described the possibility
2 of a gravesite, a grave location, in Durham in a
3 grove of trees, oak trees, on a hillside near a
4 railroad station which to my thinking is a vague
5 reference and did not provide me enough
6 information to designate sensitivity in our
7 survey area.

8 Q Did you do anything else aside from look at that
9 information to assess a potential site there?

10 A I did walkover survey, no subsurface ground
11 testing, but I did walk over and looked at it
12 twice.

13 Q Do you believe that your assessment of that
14 information was thorough?

15 A I think it is thorough.

16 Q Do you think there's anything more in your
17 professional opinion that needed to be done with
18 respect to that location?

19 A No.

20 Q When Mr. Aslin was questioning you, he asked
21 about the scope of the area of potential effect
22 or APE. Do you recall that?

23 A Yes, he did.

24 Q Can you explain how the APE was set for this

1 Project?

2 A Yes. The APE or area of potential effect is
3 assigned by the lead federal agency for this
4 sort of Project. The Army Corps of Engineers is
5 the lead federal agency in this case. The Army
6 Corps provided a letter in which they referenced
7 Section 106 and that letter identified locations
8 where this would come into play. The Army
9 Corps's locations generally, well, absolutely
10 include wetlands and surface water bodies, and
11 their jurisdictional permit request was for a
12 series of these types of features within the
13 Project area.

14 That constituted the original APE which was
15 very limited and confined. The Project and
16 Eversource made a significant determination to
17 expand on the Army Corps's request for Section
18 106 at the jurisdictional permit locations, and
19 the company decided to expand the APE to include
20 the entire corridor, both its length and the
21 width, and do archeological survey in the upland
22 areas in addition, and this approach was well
23 suited to expectations of Division of Historic
24 Resources. It's the kind of survey that they

1 like to see, and it's the kind of survey that
2 we've been doing on numerous other power lines
3 and corridors throughout the entire state. The
4 APE, therefore, became the entire length and
5 width of the corridor, and all of that was
6 surveyed in my archeological studies.

7 Q Is it your understanding that DHR was satisfied
8 with the scope of the APE in this case?

9 A Yes, it is. DHR approved my reports which
10 discussed the APE and the findings within it,
11 and in meetings with DHR, strategies involving
12 the APE were agreeable.

13 Q Mr. Aslin also asked you about potential
14 vibration effects, and I think you said that you
15 had never seen such effects on archeological
16 resources; is that right?

17 A Yes.

18 Q He asked you about cemeteries. In your
19 experience, have you ever seen a vibration
20 effect on archeological resources in a cemetery?

21 A No.

22 Q And he also asked you about cellar holes. In
23 your experience, have you ever seen a vibration
24 effect on a cellar hole?

1 A No.

2 Q During the course of dealing in this Project
3 that you had with DHR, did DHR ever raise
4 concerns about vibration effects?

5 A No, they did not.

6 Q Mr. Aslin also had some questions for you about
7 your assessment of archeological resources on
8 access roads. Do you recall that?

9 A Yes.

10 Q And I think at one point you could not recall
11 whether you had done assessments of roads beyond
12 the five that were listed in the recent report.
13 Do you recall that?

14 A That's right, yes.

15 Q And in particular a couple of those roads I
16 think were Beech Hill Road and Mill Road; is
17 that right?

18 A Yes.

19 Q And did you have an opportunity at the break to
20 go back and look at this issue?

21 A I did, and I did find the report where those
22 roads were discussed.

23 Q And that was Exhibit 176; is that correct?

24 A Right.

1 Q Having had an opportunity to look at that now,
2 do you believe that you missed any of the access
3 roads that were not otherwise roads that you
4 thought were heavily impacted previously?

5 A I don't feel that I missed any of the access
6 roads.

7 Q Thank you. Nothing further.

8 PRESIDING OFFICER WEATHERSBY: Thank you.
9 Thank you. And thank you, Dr. Bunker, for your
10 testimony.

11 A Thank you.

12 PRESIDING OFFICER WEATHERSBY: You may be
13 excused.

14 A Thanks.

15 PRESIDING OFFICER WEATHERSBY: We are going
16 to call the Construction Panel and try to get
17 through maybe an hour, 45 minutes at least, some
18 breaking point before lunch just to try to keep
19 things moving because we're already pretty
20 behind schedule. We'll take five minutes while
21 they get situated. First questioner will be
22 Attorney Patch for the Town of Durham.

23 (Recess taken 11:41 - 11:46 a.m.)

24 PRESIDING OFFICER WEATHERSBY: Welcome

1 back, Construction Panel. Attorney Patch,
2 you may continue.

3 LYNN FRAZIER, PREVIOUSLY SWORN

4 NICHOLAS STRATER, PREVIOUSLY SWORN

5 DAVID PLANTE, PREVIOUSLY SWORN

6 KENNETH BOWES, PREVIOUSLY SWORN

7 MARC DODEMAN, PREVIOUSLY SWORN

8 WILLIAM WALL, PREVIOUSLY SWORN

9 CROSS-EXAMINATION CONTINUED

10 BY MR. PATCH:

11 Q Thank you. Good morning. My name is Doug
12 Patch. I represent the town of Durham and
13 University of New Hampshire. And I have a few
14 questions for you, Ms. Frazier. Is that the
15 name you prefer to be called by?

16 A (Frazier) Yes.

17 Q Okay. Thank you. Are you familiar with Durham
18 and the roads in Durham that will be impacted in
19 one way or another by this Project?

20 A (Frazier) Yes.

21 Q Have you walked those roads or have you spent
22 much time there?

23 A (Frazier) Just driven them.

24 Q In your 2016 testimony, you discuss the New

1 Hampshire DOT permits and approvals that
2 Eversource is seeking in connection with this
3 Project, correct?

4 A (Frazier) Yes.

5 Q And these are State roads that you discuss in
6 your testimony, correct?

7 A (Frazier) Correct.

8 Q I didn't see any discussion in that testimony of
9 local requirements, local ordinances or any
10 interaction that you had with local officials.
11 Was there any?

12 A (Frazier) No.

13 Q And why is that?

14 A (Frazier) Because it's not part of my scope of
15 work.

16 Q Okay. So somebody at Eversource presumably gave
17 you a scope of work and it did not include
18 interacting with local officials on local roads?

19 A (Frazier) Correct. I think Mr. Bowes could
20 probably add more.

21 Q Mr. Who? I'm sorry. I didn't hear that.

22 A (Frazier) Mr. Bowes.

23 Q Mr. Bowes. Okay. Mr. Bowes, you want to
24 confirm that?

1 A (Bowes) Yes. Yes, we've had many meetings with
2 the Town of Durham including the highway
3 department concerning use of roads and road
4 crossings as well.

5 Q But Ms. Frazier was not involved in any of that?

6 A (Bowes) That is correct, I believe.

7 Q And in your testimony, Ms. Frazier, you talked
8 about how you were involved in two meetings with
9 New Hampshire DOT. Is that correct?

10 A (Frazier) Yes.

11 Q But no such meetings with local officials?

12 A (Frazier) Correct.

13 Q Would you agree that local officials should have
14 the best awareness of traffic patterns in their
15 community?

16 A (Frazier) For local roads, yes.

17 Q And to the best of your knowledge, are there any
18 local roads that are being impacted by this
19 Project?

20 A (Frazier) Yes.

21 Q But it wasn't something that you considered?

22 A (Frazier) Not me personally, no.

23 Q Are you familiar at all with, have you been
24 involved at all in the discussions about the

1 MOUs, the Memoranda of Understanding, that
2 Eversource has been negotiating with Durham and
3 UNH?

4 A (Frazier) Yes. I reviewed them.

5 Q Okay. You have not been involved in any of the
6 discussions directly with local officials
7 though?

8 A (Frazier) Correct.

9 Q And are you familiar with what steps would be
10 undertaken to ensure that Eversource keeps the
11 Durham Public Works Department and the UNH
12 Facilities Department informed of the Project
13 schedule and the logistics and so forth?

14 A (Frazier) I'd have to review that. I believe
15 that's in there.

16 Q Do you have a sense of how Eversource will
17 ensure that the town and UNH are aware of
18 scheduling issues that may impact local
19 roadways?

20 A (Frazier) I'm sorry. Can you repeat that?

21 Q I said are you aware of how Eversource will
22 ensure that the Town and UNH are aware of
23 scheduling issues that may impact local
24 roadways?

1 A (Frazier) Somewhat. Again, Mr. Bowes may be the
2 better person to answer. Or Mr. Plante.

3 Q And Mr. Bowes, fair to say that's something that
4 would be addressed in the MOU?

5 A (Bowes) Yes, it is. Directly.

6 Q And if by some chance we can't reach agreement
7 on the MOU, then, I mean, I think it's fair to
8 say that Durham and UNH would both be seeking
9 conditions from this Committee presumably, and
10 would you, how would you approach that in the
11 event that an MOU could not be finalized?

12 A (Bowes) Sure. So the Draft MOU that's in place
13 today would be the framework for that going
14 forward, and we would file that with the SEC
15 whether it was signed only by Eversource.

16 Q Okay. So you'd be filing similar kinds of
17 conditions with this Committee.

18 A (Bowes) The identical conditions that are
19 presently in the latest draft.

20 Q Okay. And Ms. Frazier, is it your understanding
21 that Main Street in Durham is a state road or a
22 local road?

23 A (Frazier) That location, I believe, it's a state
24 route.

1 Q A state route, you think. Are you sure of that?

2 A (Frazier) I'd like to look at a map to verify
3 real quick.

4 Q Okay. Mr. Bowes, do you have an opinion on
5 that?

6 A (Bowes) It's a State road. I believe there's
7 some maintenance agreement for the town though.

8 Q Ms. Frazier, are you checking something?

9 A (Frazier) No.

10 Q Oh, okay. I thought you were checking.

11 By what date, and this could come from
12 either you or Mr. Bowes, will Eversource provide
13 the town with a list of local roadways it
14 desires to utilize as part of the Project for
15 the town's consideration? I mean, in
16 relationship to the construction start date?

17 A (Bowes) So it's listed in the Prefiled Testimony
18 of Mr. Plante and myself. It's also part of the
19 MOU.

20 Q Could you remind us what it is?

21 A (Bowes) Which town roads?

22 Q Not which roads but the timing of notification
23 of town officials vis-a-vis the beginning of the
24 construction date. The timing of notification

1 of which roads would be impacted.

2 A (Bowes) I'm not sure I understand.

3 Q Presumably, there will be a list of roads, I
4 mean, there are roads, I think, presented in the
5 Application or in documents that have been
6 provided. Is there any chance those will
7 change?

8 A (Bowes) I would say there's always a chance
9 those would change based on some emergency
10 situation that the Town would have and we'd have
11 to work around that. That's part of the
12 protocol identified in the MOU. A road
13 accident, for example, we'd have to deal with
14 that. So I think what you're getting at is the
15 advance notice that we would give the Town?

16 Q Yes.

17 A (Bowes) For when we would use the road? I think
18 it's defined in the MOU and it's several days in
19 advance if a change were to take place. Just in
20 general the construction schedule on a weekly
21 basis probably posted to a website as well for
22 town residents.

23 Q Will Eversource take any steps to accomplish an
24 inventory of the conditions of local roads prior

1 to the initiation of the Project?

2 A (Bowes) Yes. That's part of the MOU we've
3 executed with the Town of Newington, and it's
4 also proposed for the Town of Durham.

5 Q And if the Town or UNH determined that roadways
6 have been damaged, how would Eversource ensure
7 that the roadways are repaired and repaved
8 following completion of the Project?

9 A (Bowes) So, again, that's outlined in the MOU.
10 There's a period of time that we have would have
11 to make repairs to the road, and that would be
12 at Eversource's cost.

13 Q And again, just to note for the record, in the
14 event that an MOU can't be signed, then it would
15 be similar kind of conditions that would be
16 proposed to the Committee by Eversource.

17 A (Bowes) Exactly right, yes.

18 Q And in terms of hours of operation of
19 construction, and obviously that can have an
20 impact on local residents and local businesses,
21 what process will Eversource follow and what are
22 the general hours of operation that you intend
23 to do to make sure that they basically conform
24 with local noise regulations?

1 A (Bowes) So that's also defined in the Draft MOU.
2 We typically use 7 a.m. to 7 p.m. I think there
3 are some additional restrictions in the Town of
4 Durham, and there's, I think, one exception to
5 that at UNH dealing with the underground jack
6 and bore and also if acceleration's needed to
7 work around time-of-year restrictions with the
8 University.

9 The second deviation from that would be the
10 cable work inside Little Bay where a continuous
11 operation might be needed that would extend
12 outside of those hours, and there's a
13 prenotification process within the MOU for the
14 town officials in that case.

15 Q And the hours you gave are Monday through
16 Friday?

17 A (Bowes) I think they're traditionally Monday
18 through Saturday unless changed within the MOU.
19 We're looking at the draft right now.

20 MR. IACOPINO: Is the Draft MOU one of the
21 exhibits?

22 MR. NEEDLEMAN: No. I don't believe it's
23 an exhibit at this point.

24 MR. IACOPINO: Thank you.

1 A (Bowes) So the Draft MOU, the latest draft we
2 have is August 21st. And on page -- doesn't
3 look like they're numbered yet. On page 6, item
4 number 2, construction hours have been limited
5 through discussions with the Town of Durham.
6 And they are 7 a.m. to 6 p.m. Monday through
7 Friday and 9 a.m. to 6 p.m. on Saturday. So
8 those are the hours we would work, if the MOU
9 were not to be executed, we would go forward
10 with those work hours.

11 Q Okay. And how will Eversource ensure that local
12 traffic patterns are not disrupted as a result
13 of the Project or disrupted as little as
14 possible?

15 A (Bowes) So, again, there's a condition in here
16 to work with the Department of Public Works or
17 the University depending on which MOU you're
18 discussing.

19 Q And you'd respect that regardless of whether an
20 MOU was signed?

21 A (Bowes) Yes, we would.

22 Q Thank you. And if Durham determines that local
23 roadways must be closed due to safety or
24 logistical reasons or other issues during the

1 course of the Project, how will Eversource alter
2 its plans to ensure that the local
3 determinations are honored?

4 A (Bowes) Just trying to think how to best phrase
5 this. It's usually the police department that
6 would close those roads so we're obviously not
7 going to interfere with their operations. If
8 it's an extended period of time for some
9 maintenance activity that the town needs to do,
10 we would coordinate that with the town public
11 works department.

12 Q Okay. What type of public outreach program do
13 you anticipate using to respond to public
14 concerns and engage with the abutters and
15 neighbors during the duration of the Project?

16 A (Bowes) So this is covered within the Draft MOU.
17 It's actually the first page. Sorry. Page 2
18 rather. Talks about public inquiries and
19 comments, and it talks about using a
20 notification system depending on what type of
21 work is being done, but it would include, at a
22 minimum, mailings, door hangers, Project
23 website, toll-free number, and obviously
24 reacting and working with the town officials to

1 modify any of those communication channels as
2 necessary.

3 Q Can you talk about the procedures that
4 Eversource will put in place to protect the
5 integrity of the railroad trestle under Main
6 Street during the, basically, an HDD process
7 that's going to be used in that location?

8 A (Bowes) So the construction process includes a
9 design phase as well as a construction and then
10 a remediation phase. So through the design of
11 the trenchless crossing here, we've analyzed the
12 adjacent structures and roadway above, and we
13 believe the design incorporates an effective and
14 efficient process but also it won't compromise
15 the integrity of adjacent structures.

16 During the construction sequence, we'll
17 have construction representatives that monitor
18 those activities, and those may include the
19 railroad having a monitoring function as well.

20 And then after the Project is completed,
21 there will be a remediation phase to make sure
22 all of the equipment, structures and any site
23 work that needs to be done to restore it to its
24 pre-existing condition would be completed.

1 Q Are some of the roadways that will be impacted
2 by the Project Class VI roadways?

3 A (Bowes) Yes.

4 Q And are there stone walls on those roadways?

5 A (Bowes) You mean along those roadways?

6 Q Yes, that would be impacted by the Project.

7 A (Bowes) I don't believe any impacted but
8 certainly along the roadside.

9 Q And in terms of restoration once the
10 construction is completed, could you explain how
11 Eversource will restore Class VI roadways
12 basically to their preconstruction state?

13 A (Bowes) So if that's desired by the property
14 owner or town, that's what we would do. First
15 starts out with what, we'll assess the road to
16 begin with to determine if it can handle the
17 construction equipment, and the most common
18 improvement that is made will be laying down a
19 series of truckloads of gravel and then
20 spreading it. So probably about six inches of
21 gravel. We would then return at the end of the
22 Project and remove that gravel, and depending
23 upon the town public works or with the property
24 owner, we might make improvements to that road

1 if desired or we'd try to put a crown on it to
2 aid with erosion and sediment control in the
3 future or return it to its original flat state.

4 PRESIDING OFFICER WEATHERSBY: I'm going to
5 interrupt for just a moment. Two requests. Mr.
6 Bowes, could you pull the microphone close to
7 you so that we all can hear you clearly? Nice
8 soft voice, but we all want to be able to hear
9 it, and the second is a request that perhaps the
10 Draft MOU could be provided to the Committee?

11 MR. NEEDLEMAN: We'd be happy to provide
12 it. I assume Durham would be okay with that?

13 MR. PATCH: I'd like to just talk to my
14 client about that, and we'll let you know.

15 PRESIDING OFFICER WEATHERSBY: Okay. Thank
16 you. Please let us know.

17 BY MR. PATCH:

18 Q Are there any scenic roads that will be packed
19 by the Project?

20 A (Bowes) Roads designated as scenic will be used
21 for the Project.

22 Q For transportation of equipment?

23 A (Bowes) Yes.

24 Q And do you anticipate any impacts to those

1 scenic roads?

2 A (Bowes) I would say there will be the temporary
3 impacts of the movement of equipment but no
4 permanent impacts.

5 Q So no cutting of trees or anything along those
6 scenic roads?

7 A (Bowes) So that, I guess I may have to back up.
8 There probably is some vegetation that would be
9 necessary both for, although not part of this
10 Project for the distribution relocation off the
11 right-of-way. And also there may be clearance
12 issues with vegetation on those roads today.

13 Q To the best of your knowledge, are there
14 statutory requirements for cutting on a scenic
15 road?

16 A (Bowes) I believe there are, yes.

17 Q And it's Eversource's intention to comply with
18 those requirements?

19 A (Bowes) Yes, it is.

20 Q And safe to say they'll be blasting as parts of
21 this Project?

22 A (Bowes) I don't believe so, no.

23 Q You don't anticipate it? Is it a possibility?

24 A (Bowes) I guess Mr. Plante has additional

1 information on that.

2 A (Plante) So we do anticipate the need for some
3 blasting on the underground portion of the
4 Project south of Main Street in Durham through
5 the UNH property near the Whittemore Center.
6 Not the Whittemore Center but the Field House.

7 Q And what steps will be taken to ensure that no
8 additional damage is done?

9 A (Plante) I believe this is also covered in the
10 MOU. We would require our contractor to employ
11 a suitably certified blasting contractor to
12 perform those activities and follow the
13 appropriate notification processes with the
14 local fire department who typically oversees
15 blasting activities, and that would include
16 notifications to abutters, preblast surveys, if
17 necessary.

18 Q And in terms of aerial crossings at local
19 roadways, what about Traffic Control Plans, you
20 know, that are associated with that?

21 A (Frazier) Yes. They were provided in the
22 application.

23 Q Could you give us a citation?

24 A (Frazier) Yes. Maybe.

1 MR. IACOPINO: Did you say E?

2 A (Frazier) Let's check. But I do have it here if
3 you wanted to project it.

4 Q I don't think we need to do that. I'm just more
5 interested in the citation to where it appears
6 in the record so -- and if you don't have that
7 now, maybe we can --

8 MR. NEEDLEMAN: I think it's Appendix 18.

9 Q Which is exhibit?

10 A (Bowes) Appendix 18 is the overhead and
11 underground municipal highway crossings.

12 Q Do you know what the exhibit number is?

13 MS. GAGNON: 37.

14 MR. NEEDLEMAN: 37.

15 Q Okay. Thank you.

16 MR. PATCH: If I could just have one minute
17 to confer with my client.

18 In terms of the -- Durham would be willing
19 to share the last draft of the MOU that they
20 provided to Eversource for the record. I mean,
21 this is where it gets problematic in terms of
22 providing a draft. So if that's acceptable to
23 the Applicant, we'd be happy to do that.

24 MR. NEEDLEMAN: Well, it's not the most

1 current version. We provided another one, but
2 that's fine.

3 MR. PATCH: Okay. I'm not sure that's the
4 case, but anyway, the last draft that we shared
5 with the Applicant we'd be happy to provide.

6 BY MR. PATCH:

7 Q And I guess, Mr. Bowes, this is probably for
8 you, but will Eversource post a bond to repair
9 local roads if needed?

10 A (Bowes) If needed, yes.

11 Q Is that something that's typically done in these
12 kinds of situations?

13 A (Bowes) I think many towns require that for
14 other projects, and it's not uncommon, I'll say.

15 Q And I want to go back to the ownership and
16 maintenance of Main Street. It seems to be your
17 understanding that that that's somehow owned by
18 the state, but Durham is under the very clear
19 impression that they're the ones that own it and
20 maintain it. So I don't know where, why you're
21 under the impression that that's not the case.

22 And apparently it was transferred to the
23 town from 155 A to the intersection of Newmarket
24 and Dover Roads. And so would you be willing,

1 subject to check that, you know, that's the
2 ownership situation?

3 A (Bowes) Yes, I would.

4 Q Okay. Thank you. And in terms of potentially
5 spring postings for weight limits, I don't know
6 that, in terms of the construction schedule, to
7 the extent that spring postings for weight
8 limits were to, you know, were to be in place,
9 in the event of certain portions of the
10 construction, would Eversource be willing to
11 work with the local DPU with regard to that?

12 A (Bowes) Yes. We would.

13 Q Okay. Thank you. That's all the questions.
14 Thank you.

15 PRESIDING OFFICER WEATHERSBY: Thank you,
16 Attorney Patch. I think we will break for lunch
17 and come back at 1:15. We'll resume with the
18 Construction Panel. Up next will be Attorney
19 Ratigan representing the Town of Newington.

20 (Lunch recess taken at 12:12
21 p.m. and concludes the **Day 2**
22 **Morning Session**. The hearing
23 continues under separate cover
24 in the transcript noted as **Day**

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2 Afternoon Session ONLY.)

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C E R T I F I C A T E

I, Cynthia Foster, Registered Professional Reporter and Licensed Court Reporter, duly authorized to practice Shorthand Court Reporting in the State of New Hampshire, hereby certify that the foregoing pages are a true and accurate transcription of my stenographic notes of the hearing for use in the matter indicated on the title sheet, as to which a transcript was duly ordered;

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this transcript was produced, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

Dated at West Lebanon, New Hampshire, this 6th day of September, 2018.

Cynthia Foster, LCR